

July 22, 2009

Winston-Salem/Forsyth County
Ten-Year Plan Commission on Homelessness
c/o Andrea Kurtz
301 N. Main Street, Suite 1700
Winston-Salem, NC 27101

RE: ZONING TEXT AMENDMENT UDO-204

Dear Ms. Kurtz:

The attached report of the Planning Board to the Forsyth County Board of Commissioners and City of Winston-Salem City Council is sent to you at the request of the Commissioners and Council Members.

When the text amendment is scheduled for public hearing, you will be notified by the Clerk to the County Commissioners and the City Secretary, of the date on which the Commissioners and City Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

Attachment

pc: County Manager's Office
City Secretary

ACTION REQUEST FORM

DATE: July 22, 2009
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning Text Amendment proposed by Winston-Salem/Forsyth County Ten-Year Plan Commission on Homelessness

SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by Winston-Salem/Forsyth County Ten-Year Plan Commission on Homelessness to remove the prohibition of retail sales in Shelters for the Homeless (UDO-204).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-204

STAFF: [David Reed](#)

REQUEST

This text amendment is proposed by the Ten Year Plan Commission on Homelessness to amend Chapter B, Section 2-5.70.1 of the UDO to remove the prohibition of retail sales as a use allowed in the same facility as a Shelter for the Homeless.

BACKGROUND

The Ten Year Plan Commission on Homelessness was in the process of preparing an application for a Special Use Permit from the Elected Board for a Shelter for the Homeless. The Commission's plan includes a coffee shop in the same building as part of the overall operation. Because of the current Use Conditions in the UDO, the coffee shop, which falls under the broader definition of Retail Sales, is prohibited in the same facility as a Shelter for the Homeless.

ANALYSIS

In 2007 the Winston-Salem City Council and the Forsyth County Board of Commissioners adopted UDO 163 which established a definition and land use classification for "Shelters for the Homeless". Prior to UDO 163, the use was classified a "Group Care Facility A or B" and had to meet the spacing requirements and all other conditions for those uses. The proposed expansion of one of the existing "Shelters for the Homeless" led to a review of the "Group Care Facility A or B" regulations and ultimately led to the creation of a unique definition for homeless shelters. In creating the use conditions for "Shelters for the Homeless", some of the language was taken from the use conditions for "Group Care Facility A or B" including the prohibition of retail sales. Group Care Facility A by definition allows for recuperation from drug or alcohol abuse and Group Care Facility B can serve as an alternative to incarceration. Both allow accessory production activities but restrict the display and sale of any goods produced. When creating the use conditions for "Shelters for the Homeless", some of the use conditions from "Group Care Facility A or B" were carried over including the prohibition of retail sales.

Because "Shelters for the Homeless" is now a unique use and does not have accessory production activities, a complete prohibition of retail sales may not be appropriate since each shelter is reviewed as an Elected Board Special Use Permit. Furthermore, the list of support services listed in the definition of "Shelters for the Homeless" includes job training and placement and allowing retail sales in the same facility could allow for such a service.

To clarify that the establishment of such a retail use in an existing Shelter for the Homeless would constitute a Change of Use and thus require a Special Use Permit be issued by the elected board, staff is recommending additional language be added to the last sentence of Section 2-5.70.1 (B).

Finally, eliminating the prohibition of retail sales as a use condition for “Shelters for the Homeless” does not create any additional rights for the shelters. For example, if a “Shelter for the Homeless” is located in a zoning district that does not allow retail sales, this text amendment would not allow for such a use to be established if the underlying zoning prohibits the use.

RECOMMENDATION

APPROVAL

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Paul Mullican moved approval of the zoning text amendment.

SECOND: Wesley Curtis

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Darryl Little, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning

UDO-204
AN ORDINANCE AMENDING
CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO REMOVE SECTION 2-5.70.1 (D) FROM THE USE CONDITIONS FOR SHELTERS
FOR THE HOMELESS

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Chapter B, Section 2-5.70.1 of the UDO is amended as follows:

2-5.70.1 SHELTER FOR THE HOMELESS

(A) HEATED BUILDING SQUARE FOOTAGE

A minimum of fifty (50) square feet of heated building space shall be provided per resident.

(B) SPACING REQUIREMENT

A new Shelter for the Homeless may not be located within a distance of two thousand five hundred (2,500) feet from any other Shelter for the Homeless use, or from any use which, though not classified as a Shelter for the Homeless under this Ordinance, would, if it were reclassified, be classified as a Shelter for the Homeless. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Shelter for the Homeless is to be located to the nearest point of the lot line of another Shelter for the Homeless. All Shelters for the Homeless, or facilities that would be classified as a Shelter for the Homeless if it were reclassified today, existing as of the effective date of this ordinance shall be exempt from this two thousand five hundred (2,500) foot spacing requirement for the purposes of expansion or intensification of the use. These existing Shelters for the Homeless must comply with all of the provisions of Section B.2-5.70.1 and obtain a Special Use Permit from the Elected Body for such expansion or intensification of the use including, where permitted in the underlying zoning, the expansion or establishment of retail sales.

(C) OPERATION

- (1)** The Shelter for the Homeless facility shall be contained within a building owned and/or operated by a government agency or nonprofit organization.
- (2)** The Shelter for the Homeless facility operator(s) shall provide continuous, on-site supervision by an employee and/or volunteer during all hours of operation.

(D) ~~PROHIBITION ON RETAIL SALES~~

~~No retail sales shall take place in the facility.~~ Reserved

(E) MAXIMUM OCCUPANCY

A Shelter for the Homeless may house no more than one-hundred (100) residents. In the event that housing is provided for more than fifty (50) residents, additional conditions may be imposed to prevent adverse impacts on nearby properties and uses.

Section 2. This ordinance shall be effective upon adoption.